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Policy Intelligence:

Addressing The Challenges And Gaps Of Policy Development On The Cost Of Innovation & Investment In Nigeria

A White Paper on Policy Intelligence as a Solution for Better Innovation Investment in Nigeria

Advocacy for Policy & Innovation

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Executive Summary

As entrepreneurs, angels and alternative investors navigate the climate in Nigeria and Africa, the paucity of clear, concise regulatory information is always a challenge. Several policies, laws and regulatory frameworks are often in the pipeline. Ostensibly, these instruments are mostly intended to either support ease of doing business or increase government revenue.

The challenge is that often these rules are not conceived holistically: There is often limited engagement with operators who will be disproportionately impacted or in most cases these polices are not crafted following insight-driven research as basis for these rules or polices. This leads to opaque and confusing policies which can become hinderance to increased investments or scaling of innovative businesses or can lead to wipeout of investments. This situation then adversely affects the financial, human and technical investments of investors.

This whitepaper examines the problem of regulatory information gaps or asymmetry and proposes a solution in policy intelligence for investors and innovators alike. The organization, Advocacy for Policy and Innovation has taken up the task to supply accurate and relevant policy information to investors and business operators to support smart and informed decision making.

The Problem of Information Asymmetry

Information Asymmetry in this context is depicted thus: when X (which is the government law or policy making organ) obscures policy information to Y (which is the smart investor or entrepreneur), investment decisions by Y are poorly made and in the short term, hurt the resources of Y while in the long term affect the quality and effectiveness of investments and innovation in the economy of the country for which X is responsible.

In the last decade, there has been an increase in access to faster and cheaper internet, growth in technological hubs and the establishment of technology-enabled ventures which have attracted millions of dollars in investments and have created thousands of high-value jobs in Nigeria[1]. Accordingly, the development of innovation in the Nigeria digital economy has also attracted a fair level of citizen participation and significant private sector investment.

Notably, with the rising interest in the sector, the need to reduce the economy's over-dependence on oil and to find alternatives for diversification[2] has become more apparent to the Nigerian government. In its attempt to intervene in the regulation and exploitation of the technology industry, however, the government has created certain unignorable and rather telling gaps which are in turn, making the sector quite burdensome and problematic for investment and innovation.

Regulatory information asymmetries or gaps are a major challenge for investments in innovation in

Nigeria. Disproportionate access to information amongst stakeholders, particularly, the undue leverage of regulators and legislators, presents a hurdle for market entry and growth for entrepreneurs as it is uncertain what the exact rules are, when they are being changed and what they may be morphing into. Over the years, the country has witnessed significant loss of capital and investment as a result of the opacity and volatility of regulatory efforts that affect investments in innovation.

According to Google's e-Conomy[3] Africa 2020 report , 'regulatory uncertainty can impact viability and investment decisions' and the World Bank categorically reports about Nigeria that 'existing policy incentives are underutilized by digital entrepreneurs because of <u>complex and burdensome requirements, confusing application processes,</u> and a <u>lack of transparency'</u> (emphasis added). The report also notes that investors, including venture capitalists, complain about the opacity and instability of the country's legal framework as one of the challenges to operation[4].

Even a well-intentioned investor would be compelled to consider the cost (as well as ease) of doing business in such a regulatory climate as this. The report produced by OC & C and Google also alludes to the fact that there is a general lack of regulatory transparency sensed by ecosystem stakeholders which creates a sense of foreboding among entrepreneurs.

The Lagos Okada[5] and Keke[6] Ban

Lagos, arguably the most vibrant commercial state in Nigeria, began experiencing an increase in the number of ride-hailing businesses setting up shop for operation within its borders. These businesses were being set up by investors as a result of the obvious opportunity that existed for an intervention necessitated by the traffic situation, overpopulation as well as the tech-savvy demographic in the state. Companies such as GoKada, ORide and MAX.ng were not only providing the much-needed alternative means of transportation to residents but were also providing employment opportunities.

Before the onset of this development, there had been a state-wide ban of the use of motorcycles with lower than 200cc capacity on certain routes and an exemption of motorcycles with 200cc and above to ply the roads of the state. This, being a policy direction by the state government, had boosted the decision of investors to set up their ride-hailing businesses confident that they were within clear regulatory bounds.

However, in January 2020, the Lagos state government 'suddenly' announced that effective from February 2020, all ride-hailing motorcycles and tricycles were banned from plying Lagos roads; banned from operating within the state . This announcement resulted in major losses for the bike ride-hailing businesses. Before the ban, Max.ng, ORide and Gokada had collectively raised over $100 million to scale operations in Lagos. These turn of events, as Stears Business argues, creates deep uncertainties - because investors prefer a predictable regulatory environment, the seemingly sudden and unexpected ban on okadas and kekes in Lagos 'sends a negative signal to the global economy emphasising the risk of doing business in Nigeria'.

New Taxi Guidelines

Two months after the okada and keke ban, the Lagos state government revealed its intention once again to enforce regulations for taxi operators to obtain hackney permits amidst other documentation to remain in operation.

Although this regulation had always been in force, e-hailing platforms such as the Uber and Taxify noted their uncertainty and confusion over whether this would apply to them as well as there was no clear communication from the government. TechPoint Africa reports a source from one of the eRide-hailing platform states that 'We are a digital app, just connecting drivers with riders, we are not transport operators.'[12]

A few months later, the state released its 'Guidelines For On-line Hailing Business Operation Of Taxi In Lagos State 2020'[13] which requires online hailing business operators to obtain a provisional license at N10 Million per 1,000 vehicles or less; N25 Million for a fleet above 1,000 and an annual renewal fee of

N5Million and N10 Million respectively. Additionally, the operators are required to pay a 10% service tax on every ride completed. These provisions as well as the other requirements in the Guidelines are not only burdensome but were released without proper stakeholder engagement.

The Companies and Allied Matters Act (CAMA) 2020

The CAMA which was signed into law by President Muhammadu Buhari on the 7th of August had been in the public domain as a Bill for at least two years. In this period, there was little or no analysis of the provisions of the Bill which contains many dubious sections on the extent and scope of power of the Corporate Affairs Commission (“Commission” or CAC)

For instance, the Bill (now Act) extends the power of the Commission to not only the registration of all companies, businesses, and even non-profit organizations but also the investigation into their affairs, the suspension of their trustees (by court order - section 839), and even the restrictions on their financial transactions (section 842).

Also, the Act gives the Commission the power to deregister companies that have been inactive for 10 years. (Section 425) In fact, the Commission has the power to merge two or more associations with similar aims and objectives and to prescribe the terms and conditions for such merger. (Section 849)

There have been a number of advocacies against some of these provisions. However, the question is how effective would such advocacy strategies be in the face of the enactment of the law? The best time to have acted and secured the interest of relevant stakeholders was while the Act was in public domain as a Bill. Businesses and investors alike, needed that policy intelligence to guide their corporate actions and plans.

The Finance Act 2020

The Finance Bill which was released in 2020 in anticipation of the new year, 2021, and has been signed into law and has taken effect since the 1st day of January 2021. The Act is extremely critical to businesses and investors because not only does it prescribe the fiscal priorities of the country, it also gives a pointer into the direction of the government on revenue generation.

The Act expanded the scope of excise duties to apply to telecommunication services. This is very likely to increase the cost of broadband or at the very least, prevent a decrease in the cost of broadband, because service providers would then be incurring more costs in providing broadband services and would need to offset this cost.

Furthermore, the Act introduced an electronic money transfer levy of N50 on electronic transfer of money deposited in any bank on sums of N10,000 and above. The revenue derived from this new levy is to be shared based on derivation (15% to the Federal Government and 85% to the states). This new levy has obvious implications for the still developing e-commerce industry of the Nigerian economy and would affect players in that field. The Input of stakeholders, especially those in the e-commerce space would have been useful to understand challenges with financial inclusion arising from operation of this provision.

Policy Intelligence as a Solution

From the afore-examined, there is an apparent need for an intervention to bridge the gap created by these regulatory uncertainties in Nigeria. Firstly (before and while the government is engaged and equipped to restructure its stakeholder management and policymaking system), there is an immediate need for a solution to present real-time, verifiable and valuable policy intelligence to existing and potential investors. The uncertainty and asymmetry in policy data is greatly injurious to the health of the Nigerian economy and must, at least, be tended to.

This is precisely what is being done by the Advocacy for Policy and Innovation (API). API is a policyintelligence platform and a service designed to mitigate the risk arising from development and implementation of policy, laws and regulations that affect the innovation ecosystem and investors in markets we operate.

API tracks, analyzes and identifies policies right from nascent stages of development and provides a feedback loop for interested stakeholders to either adequately plan for operational changes in the near future or to be involved in policy development conversations to shape outcomes.

With principals who have deep experience and networks in the design, development and implementation of the policy as well as cutting edge skills with a keen awareness of Nigeria's political economy and externalities, API presents a radical solution with a direct impact on entrepreneurship and investments in Nigeria.

Conclusion

Policy Intelligence as a service to existing and potential investors and innovators is valuable as it drastically reduces the effect of market volatility and uncertainty for investors. The service goes beyond the study and prediction of policy trends to the actual and precise information the investor would need to make smart business decisions. Additionally, the service opens the pathway for conversations and engagement between relevant stakeholders and policymakers. In reality, the drive of the government to introduce policy and directives for the regulation of the technology-enabled industry would only be on the increase. There may be improvements in the government's approach to communication and representation in these matters but one cannot make business decisions based on these anticipations. Rather, it has become the prerogative of the investor to seek out experts who are able to share intelligence to support real-time business decisions.

Advocacy for Policy and Innovation (API) is not-for- profit organization, registered as company limited by guarantee in accordance with the Companies and Allied Matters Act of Nigeria. API is established to serve as a vital soft infrastructure for the development of a robust innovation ecosystem. API provides real-time resourced information on policy/ bills formulation and development to aid stakeholders track and to meaningfully engage to ensure policy and regulatory risk are substantially mitigated by our stakeholders.

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